



March 26, 2015

Stanislaus NF Supervisor's Office
Att: Sue Warren
19777 Greenley Road
Sonora, CA 95370

RE: Stanislaus NF OSV proposal

Dear Ms. Warren:

Please accept this correspondence as the comments of the Off-Road Business Association ("ORBA") and the California-Nevada Snowmobile Association ("CNSA") in opposition to the Stanislaus National Forest Over the Snow Vehicle Designation ("The Proposal"). Prior to addressing the specific comments regarding the Proposal, a brief summary of each Organization is needed. ORBA is a national not-for-profit trade association of motorized off-road related businesses formed to promote and preserve off-road recreation in an environmentally responsible manner and appreciates the opportunity to provide comments on this issue. CNSA represents all snowmobilers throughout California and Nevada to promote safety and good will for the snowmobile community and provide a voice for the individual snowmobiler in all matters relating to the sport of snowmobiling. For purposes of these comments, ORBA and CNSA will be referred to as "the Organizations" .

The Organizations have actively partnered with the California OHV program and Federal and State land managers for decades to address a wide range of issues that have surrounded OSV and OHV recreation in California and the region. The Organizations have actively supported USFS defense of litigation involving the Snowlands Network challenge to the grooming program in several USFS forests in California both in State and Federal Courts. The Organizations are troubled regarding the issues that have arisen in the Proposal that must be opposed, but look forward to working with federal land managers to continue to provide the high quality multiple use recreational opportunities that have become synonymous with the Stanislaus National Forest.

1. Public input process must be improved.

The Organizations are very concerned about the direction of the Proposal and the methodology of analysis relied on as the basis for a large amount of the proposed changes. It is the Organizations position that this research falls well short of best available science on many of these issues. The Organizations are aware that OSV recreation on the Stanislaus NF has been effectively managed for a long period of time, through Forest Supervisor Orders, the lands and resource planning process and permits provided for grooming operations on the Forest. The sufficiency of this analysis is an issue that has been vigorously litigated recently, and as a result the Organizations were shocked to see the scope of proposed changes in OSV travel management in the Proposal. While this OSV analysis has not been provided in a single document, any assertion that the analysis has not been performed would lack factual basis.

The Organizations are intimately familiar with NEPA analysis on a wide range of issues and have to voice serious concerns about the methods being employed to obtain public input. It is well established that NEPA regulations require an EIS to provide all information under the following standards:

"... It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment..... Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses...." ¹

The Organizations submit these efforts are somewhat limited and any materials are poorly organized and difficult to understand at best and simply fall well short of satisfying the NEPA requirements for federal planning and public involvement. Often finding the information that is necessary to comment on the Proposal is difficult, as press releases and invitations identify attendance at public meetings as the primary method for providing input. While there was an FAQ document prepared for the Proposal, this document simply fails to provide any contact information or method for the public to provide input. It has been the Organizations experience that this is one of the first questions asked by the public in any planning process.

Additionally, the Organizations are unable to locate Stanislaus NF LRMP on the Forest's website. This document is a critical component in the public's ability to compare assertions of

¹ See, 40 CFR 1500.1.

consistency of the Proposal with current planning. Numerous references are made in press coverage of the Proposal regarding the limited availability of maps at any location other than public meetings. This is deeply troubling as well. As a result the Organizations and public ability to meaningfully comment on many of the changes that are proposed is significantly impaired. This failure to provide basic information is in stark contrast to the recent OSV proposal that have been released by other USFS forests that were involved in the challenge to grooming activities where all basic information was available and high quality information on the forests particular OSV Proposals was available.

The Organizations must also express serious concerns regarding the poor quality of maps that have been provided for the Proposal which will directly impair the public ability to comment on site specific issues. Site specific input has been repeatedly identified as a priority and repeatedly been requested of the public in scoping documents. These maps entirely lack basic landmarks such as towns, roads, rivers or other identifiable land marks other than county lines in the area and do not have sufficient resolution to allow for the public to zoom their view to a finer resolution. Additionally, these maps are provided at the Forest Level, making it difficult to address any site specific issues in a meaningful way, even if both parties are intimately familiar with the areas. It has been the Organizations experience that even the best forest level travel maps are unable to provide sufficient information to address local area concerns. The necessity to provide quality information at a level where boundaries can be easily understood has already been identified as a problem in the Pacific Valley area, where a long slender corridor has been used for OSV travel.

The Organizations are also concerned regarding the failure of public documents produced in association with the Proposal to give consistent guidance to the public regarding the management standards. Rather than consistently and clearly identify issues and associated management standards, these documents frequently directly contradict each other on basic management standards and standards to be implemented. This issue is more extensively addressed in subsequent portions of these comments.

2. Significant permanent management changes are made based a temporary lack of snow.

The Organizations must express concern over one of the foundational principals of the Proposal, mainly that areas below 5,000 ft will continue not to receive snowfall sufficient to support OSV recreation. The Organizations are concerned that hard elevational standards do not reflect actual conditions and are redundant to minimum snowfall standards that are proposed.

Significant closures are proposed - appears to be 50,000 acres above 5,000 ft.

3. Summer and Winter Travel management are significantly different issues.

The Organizations are deeply troubled by comments from Stanislaus NF representatives in recent press coverage to the effect that summer and winter travel management decisions will look very similar.² This is not an accurate reflection of the current USFS management of OSV travel. The Organizations are unable to identify any basis for the statement as the OSV management Proposal currently open for comment appears to carry large open riding area designations forward in parts of the Stanislaus NF. These large riding areas are highly valued by the snowmobile community and are an integral part of the high quality OSV experience that the Stanislaus NF has become synonymous with. The Organizations are opposed to any version of the Proposal that would be based on making summer and winter travel decisions similar.

The Organizations must note that the position of similarity of OHV and OSV management decisions would directly conflict with the conclusions provided by the USFS in relation to the new Winter Travel Management Plan. These documents specifically concluded as follows:

"The difference between management of OSV use and management of other types of motor vehicle use on NFS lands stems from differences in their associated settings, activities, environmental impacts, and public preferences. National Forests and Grasslands change when snow blankets the landscape. Vegetation camouflages, animals burrow, and water transforms into ice. Recreationists and others accessing snow-covered National Forests and Grasslands typically trade hiking boots for skis and snowshoes and motor vehicles with tires for those with tracks and sleds."³

Given the direct conflict of the sentiments expressed by Stanislaus NF press coverage and the national USFS position on this issue, the Organizations submit that these positions simply are irreconcilable and Stanislaus NF management must be reconciled with national guidelines, unless there is a clear science based management decision to justify such a change.

The Organizations are further troubled by statements identifying that OHV and OSV management are very similar as there is a large body of research, clearly recognized as best available science, that clearly concludes that OHV travel and OSV travel are very different issues

² http://www.calaverasenterprise.com/news/article_67487ef4-cc2f-11e4-96d3-afede327b096.html

³ *See, Use by Over-Snow Vehicles (Travel Management Rule)*; 80 Federal Register 34678, No. 18 January 28, 2015 at pg 34679.

in terms of possible resource impacts and management issues. The Organizations have enclosed a copy of the American Council of Snowmobile Associations Facts and Myth about Snowmobiling and Winter Trails booklet. This document was prepared to provide land managers with a quick reference material for review of how OSV travel differs from OHV travel in terms of management and possible resource impacts. The scope of possible resource impacts from OSV travel are significantly limited by the buffer that snowfall provides between the OSV and the ground.

4a. The proposed Sierra Yellow legged frog and Yosemite toad habitat management standards are not based on best available science.

The Organizations are concerned regarding the proposed closure of Sierra Yellow legged frog and Yosemite Toad ("the Amphibians") habitat areas to OSV travel in what appears to be an attempt to improve habitat. The Organizations are very supportive of protection and recovery of endangered species, as these species are an integral part of a quality outdoor recreational experience. In furtherance of this position, the Organizations support determinations regarding sufficient snowfall for the protection of amphibian habitat. While the Organizations are supportive of protection of species, the Organizations are very concerned with management standards that are largely symbolic in nature or are not based on best available science. The Organizations submit that only effective management will remove any species from the threatened or endangered species list. After a review of recent USFWS listing decisions and §7 Consultation on recent projects in the Stanislaus, the Organizations are not able to establish any relationship between the closure of amphibian habitat to OSV travel and any species specific threats to habitat quality that are raised in these documents. These documents clearly state that the primary threats to the amphibian species are completely unrelated to recreational activity.

The Organizations believe a review of the priority threats to the amphibians in the Stanislaus NF will substantiate our opposition to any closures to OSV access in an attempt to improve habitat, as these closures would be exactly the largely symbolic actions that must be avoided in management of any species. The priority threats to amphibians on the Stanislaus are: 1) Chytridiomycosis; 2) Pesticides; 3) livestock grazing; and 4) predation of young by reintroduced trout. The majority of these issues are immediately evident to be completely unrelated to OSV travel, but the primary threat is often not a generally understood issue. After a cursory review of this threat, it is immediately clear that this threat is also completely unrelated to OSV recreation. Chytridiomycosis is an infectious skin fungus that has hugely impacted amphibian populations throughout the world and has resulted in a 30% decline in overall populations of amphibians and the complete extinction of some species. It is significant that this fungus is actively impacting amphibians in portions of the world that have simply never been used for

OHV or OSV recreation. How this fungus spreads between areas and specific amphibians is unclear but research indicates it probably passes by direct contact of the amphibians in their habitat. Given these issues, the Organizations are unable to identify any scientific relationship between priority threats to the amphibians and the OSV management restrictions that are proposed.

In the very recent past, researchers have identified a relationship between global climate change and declines in amphibian populations and a possible increased fungus susceptibility of amphibians.⁴ The Organizations submit that any assertion of OSV localized closures impacting global climate change would be problematic and lacking factual basis. Given the clarity of these threats, and the complete lack of relationship of these issues to recreational activity, the Organizations are opposed to any OSV area closures due to amphibian habitat concerns.

4b. Recreational activity in amphibian habitat has been specifically identified as an issue that does not threaten the species.

As previously discussed, the Organizations submit that proposed closures of amphibian habitat areas to OSV travel is entirely unrelated to priority threats to the species. Additionally any assertion that closures of amphibian habitat areas to OSV travel is necessary to improve that habitat is directly contradicted by recent listing decisions by the USFWS. Recent determinations from the USFWS have specifically and clearly reduced the threat level to amphibian habitat from recreational activity. These documents unequivocally state this change as follows:

"We reviewed information provided by the U.S. Forest Service (USFS), the National Park Service (NPS), CDFW, and others on recreation activities, and we changed our conclusion on the recreation threat magnitude from low significance to the species overall to not considered a threat to populations over much of their range. However, we recognize that there may be localized effects, especially outside of backcountry areas where use is high or where motorized and mechanical use occurs in extant frog habitat."⁵

The USFWS final listing decision further expanded on this issue as follows:

⁴ See, USDOJ, Fish and Wildlife Service, copy of this document is attached as exhibit B.

⁵ See, DOI, USFWS; Endangered and Threatened Wildlife and Plants; *Endangered Species Status for Sierra Nevada Yellow-Legged Frog and Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and Threatened Species Status for Yosemite Toad; Final Rule* Vol. 79, No. 82 Federal Register 24256; April 29, 2014; at 24264. Hereinafter referred to as the "listing decision"

"Therefore, current habitat effects of recreational activities are not considered to have population-level effects to mountain yellow-legged frogs over much of their respective ranges, although there may be localized effects especially outside of backcountry areas where use levels are not limited, or where motorized use occurs in extant frog habitat."⁶

Listing decision also clearly states the minimal concern that OHV travel poses to amphibian habitats:

"Although much Yosemite toad habitat is located in wilderness or other backcountry areas removed from motorized access, the USFS has noted locations where proximity of roads or off-highway vehicle routes to Yosemite toad breeding habitat has resulted in observed impacts to Yosemite breeding habitat. Off-highway vehicles are often the first vehicles to pass through roads blocked by winter snows, occasionally driving off the road to pass remaining obstacles (USFS *et al.* 2009, p. 63). Records of such off-highway vehicle travel in breeding meadows and ponds (USFS 2013, pp. 6, 7) suggests that such activities have the potential to negatively affect these habitats, although the population-level effects to Yosemite toads are thought to be limited."⁷

Given that OHV travel at times when there is limited or no snow on the ground is not impacting populations, the Organizations must question how OSV travel with sufficient snowfall could ever be considered a threat. The Organizations further submit that closures of large OSV open areas due to habitat concerns is something other than managing for site specific issues outside Wilderness areas. Again, these documents force the Organizations to vigorously oppose the closure of any habitat areas to OSV travel.

4c. Relevant documentation on the Stanislaus NF clearly states the lack of relationship between recreational activity and amphibian habitat quality.

The Organizations have extensively discussed landscape level concerns regarding proposed management standards and landscape level documentation regarding the management of amphibian habitat areas. The Organizations submit that the proposed closures of OSV open areas due to amphibian habitat quality concerns also conflicts with USFWS documentation for several Stanislaus NF projects, further calling the basis for the management standard into question. The Organizations have reviewed the Biological Assessment recently issued in conjunction with the Stanislaus NF summer travel management plan ("the BA"). The

⁶ See, Listing Decision at pg 24273.

⁷ See, Listing Decision at pg 24293.

Organizations would note that this Biological assessment was prepared prior to the release of the USFWS documents discussed previously, which further reduced the possible threat from recreational activity to amphibians in comparison to the analysis relied on for the creation of the BA. While this BA is not a final determination for OSV determinations, the analysis provided by the BA is highly relevant and provides a compelling review of relevant issues and levels of threats to amphibian habitat that results from activity on the Stanislaus. The BA clearly stated each alternative of the Summer travel management plan was found to:

“may impact individuals or habitat, but will not likely contribute towards federal listing or cause a loss of viability to the population or species”⁸

These conclusions are highly relevant and compelling as such a finding was provided for recreational activity at times of the year when amphibians are active and lack the protective snow cover that is present during OSV activities. The BA's conclusion is made more compelling and relevant to any discussions regarding possible impacts to amphibian habitat from OSV open areas for winter travel, as Alternative 2 of the summer TMP proposal did not prohibit cross-country travel on the Stanislaus NF. If recreational activity such as this has already been found to not pose a threat, the Organizations must question any asserted relationship of the threats to the habitat areas and recreational activity.

The Organizations are also aware that on February 17, 2015 additional guidance documentation was provided by the USFWS regarding 1,116 projects in nine national forests where the project activities might impact amphibian habitat. A copy of this document has been included with these comments. Again no impacts were identified in this analysis and the Organizations submit that such analysis further calls into question the validity of any landscape level closures of amphibian habitat to OSV recreation. The Organizations submit that the analysis of 1,116 projects with a report encompassing only a few pages sends a strong indication that USFS management and activity on USFS lands is generally viewed by experts as a low priority threat to the quality of amphibian habitat and the decline of the species.

4d. Possible impacts to subnivean activity from OSV travel has been extensively researched and no relationship has been identified.

The Organizations are concerned that there appears to be a position being taken by Stanislaus NF representatives that possible impacts to amphibians using the subnivean areas from OSV travel needs further research. The Organizations submit that mammal activity in the subnivean

⁸ See, USDA; US Forest Service; *Terrestrial and Aquatic Wildlife Biological Assessment/Evaluation Motorized Travel Management Plan Stanislaus National Forest*; November 2009 at pgs 209 -211.

space has been well researched, and this research has clearly shown there is no relationship between these mammal activities and OSV recreation when there is sufficient snowfall present. As a result the minimum snowfall requirements provided in the Proposal are more than sufficient protection for mammals utilizing these areas. This research is outlined on page 24 of the facts and myths booklet that has been submitted in conjunction with these comments.

The Organizations must also note that the amphibians that are the basis of proposed OSV travel restrictions should still be hibernating during all times relevant to OSV management until temperatures become warm enough to melt the snow cover and frost from the ground. At this point OSV travel will have concluded due to a lack of snow. Prior to this time, the frozen ground that the amphibians are hibernating in will provide additional protection from any contact by OSV usage beyond the minimum snow cover requirements currently provided for. The Organizations submit that this relationship provides additional protection to amphibians when compared to the mammals that are active in the subnivean areas that science has already concluded are not impacted by OSV travel.

4e. Conflicting information is provided to the public on the relationship of OSV to habitat areas.

The Organizations must note the conflict in the positions taken in the Proposal documents and associated press coverage addressing possible amphibian related OSV management issues. The Organizations are deeply concerned that such conflicts in basic information on issues often makes it very difficult to obtain meaningful public input. Managers are unable to determine which documents are being commented on and if the member of the public is aware that the possible management issue even exists as some documents state there is no relationship between OSV travel and amphibian habitat. In the FAQ document, what appears to be a statement reflecting best available science is clearly identified as the management proposal for the amphibian habitat issues, stating as follows:

"over-snow vehicles and associated actions are not identified as a threat to the species or proposed critical habitat."⁹

This position simply cannot be reconciled with the possible mitigations identified in the Proposed Actions footnote and the extensive statements in the press from Stanislaus Forest representatives that amphibian habitat could force loss of popular riding areas. These types of conflicts simply must be avoided at all costs, as this type of process clearly violated NEPA

⁹ See, USFS Stanislaus NF FAQ on OSV Use designation analysis; December 12, 2014 at pg 4.

requirements for a detailed statement of high quality information being provided to the public for analysis .

4f. If closures are pursued in amphibian habitat, these areas must be closed to all usages.

Given the clarity of all USFWS analysis documents regarding the management of amphibian habitat and analysis documents that have been created for projects in the Stanislaus NF, the Organizations submit that if closures of amphibian habitat areas are pursued in an effort to mitigate possible inadvertent striking of amphibians during OSV recreational activity that these same closures must be applied to all activities in the habitat areas. It is the Organizations position that hikers could easily step on these small amphibians in trail areas and off leash dogs could easily directly consume amphibians in trail areas. The Organizations further submit that these activities pose a greater level of risk to amphibians being stuck than OSV usage, as these recreational activities occur at times when protective snow barriers are not present and must be managed in a similar manner. The Organizations submit that best available science clearly concludes there is stronger relationship of degrading habitat quality from these activities than OSV travel, and as a result these actions should be at least managed in a manner similar to OEV travel.

5. The proposed closure of "Proposed Wilderness areas" and "Proposed Wild and Scenic Rivers" to OSV usage is facially improper.

The Organizations are vigorously opposed to the proposed exclusion of OSV recreation from areas that are Proposed Wilderness and Proposed Wild and Scenic River areas. While the proposed action does not provide any guidance on the application of these standards, the Organizations must note that merely proposing an area as Wilderness is insufficient to determine that management of the area as Wilderness or excluding OSV travel is appropriate.

The Organizations are aware that several years ago best management practices were published in a USFS manual entitled "*A Comprehensive Manual Framework for Off-Highway Vehicle Trail Management*" that included best management practices that excluded OHV travel from proposed Wilderness areas. This manual was immediately and widely criticized, was the basis of several Congressional hearings and quickly withdrawn from circulation based on these management standards. One of the major criticisms was the standard that OHV usage was not proper in recommended Wilderness areas. The Organizations submit that this standard is no more appropriate in a local OSV travel plan than it is in national best management practices.

Additionally, the management restrictions associated with Wilderness designations are the result of a Congressional process and as Congress has failed act, these areas remain under

multiple use management requirements. The USFS simply lacks authority to alter multiple use mandates and manage only for Wilderness without a clear scientific basis for such a variation from multiple use management. Merely having a small group of the public propose that an area should be Wilderness clearly fails to satisfy NEPA planning requirements, and allowing management changes to be entirely based on a mere proposal of additional protection is offensive to the Organizations. Often these citizen proposals are not based on good science and merely seek to elevate one user group's interest above others by legislating which user group will get fresh tracks in snowfall.

Management based on mere proposals of Wilderness also completely avoids the vigorous public process that is associated with Wilderness Legislation. Often areas are proposed as Wilderness, and during the public process facts that weigh heavily against designation of the area as Wilderness are identified. The Organizations are aware that many areas have been proposed to be Wilderness for decades but such areas have never been managed for Wilderness. The Organizations submit that prior management history for these areas must also be taken into account determining the suitability of these areas for OSV usage.

6. Conclusion.

The Organizations must oppose the preferred alternative as there are numerous provisions that are not supported by best available science for the management of amphibian habitat areas. The Organizations submit that closures of any areas to OSV recreation simply because the area was proposed as Wilderness or Wild and Scenic River areas is patently improper. The Organizations are further concerned about the quality of any public input that might have been received to date as materials for the public have often been contradictory, incomplete or failed to provide basic information to address issues. The Organizations submit that these issues must be resolved in order to obtain high quality public input on the proposal.

The Organizations are aware that USFS budgets have significantly declined in recent years, making the effective application of limited resources and management standards a higher priority than ever before and management based on these faults will not be effective. The Organizations look forward to partnering with the USFS in order to continue to provide the high quality OSV recreational opportunities that the Stanislaus National Forest has become synonymous with.

If you have questions please feel free to contact either Fred Wiley, ORBA's Executive Director/CNSA President at 1701 Westwind Drive #108, Bakersfield, CA. Mr. Wiley phone is 661-323-1464 and his email is fwiley@orba.biz. You may also contact Scott Jones, Esq. at 508

Ashford Drive, Longmont, CO 80504. His phone is (518)281-5810 and his email is scott.jones46@yahoo.com.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Scott Jones". The signature is fluid and cursive, with the first name "Scott" and last name "Jones" clearly distinguishable.

Scott Jones, Esq.
ORBA Authorized Representative

A handwritten signature in blue ink, appearing to read "Fred M. Wiley". The signature is cursive and somewhat stylized, with the first name "Fred" and last name "Wiley" being the most prominent parts.

Fred Wiley, CNSA President
ORBA Executive Director